

JAN. 14. 2004 3:58PM

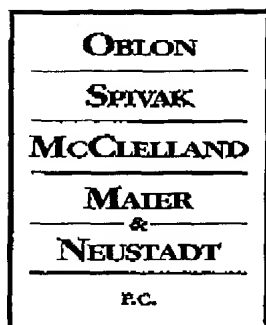
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FROM	Thomas Cunningham	193582US-0
NAME	703-413-6563	OUR REFERENCE
DIRECT PHONE #		YOUR REFERENCE 09/581,241

MESSAGE

Dear Examiner Slobodyanski,

As discussed, attached is a proposed base claim. To simplify the claim language I propose revising the Sequence Listing to include SEQ ID NOS: (7 and) 8, the native luciferase (NA and) AA sequences from which SEQ ID NOS: (3 and 5) 4 and 6 were derived. The attached page indicates support for the other limitations in the proposed claim. If this language is acceptable, the remaining claims can be revised for consistency.

Sincerely,
Thomas Cunningham

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PROPOSED BASE CLAIM FOR 09/581,241

Claim 100 (proposed): The polypeptide of SEQ ID NO: 8* or a fragment of SEQ ID NO: 8*,

wherein said polypeptide or said polypeptide fragment has luciferase activity and retains at least 85% of its luciferase activity in the presence of 0.4% benzalkonium chloride compared to its luciferase activity as measured in the absence of benzalkonium chloride.

*Note: Amend Sequence Listing to define SEQ ID NO: 8 as the same sequence as SEQ ID NO: 4 (or 6), except that residues 271 and 490 are defined as Xaa. Xaa at position 271 is any amino acid except alanine (the native residue). Xaa at position 490 is any amino acid except glutamic acid (the native residue). Support for adding SEQ ID NO: 8 is found in original SEQ ID NOS: 4 and 6 as described on pages 15-17 of the specification, see e.g., page 16, lines 5-9, and page 17, lines 8-12.

1. Support for fragments: Specification, page 3, lines 3-4 and 7-9 from page bottom.
2. Support for "at least 85% of its luciferase activity": Specification, page 5, lines 13-14.